Inspector General Issues

MAJ Silke Shrader

IG Issues

- **Fraternization Policy**
- **Homosexual Conduct Policy**
- **Sexual Misconduct (harassment and assault)**
- **ST 2, page 18**

Fraternization

Fraternization ELO

- Describe the Army's policy on relationships between Soldiers of different rank, to include
  - **Social Relationships.**
  - **Family Relationships.**
  - **Business Relationships.**
  - **Personal Relationships.**

Background

- **In 1998, Secretary of Defense directed that:**

  "all Services will, by policy, prohibit personal relationships such as dating, shared living accommodations, engaging in intimate or sexual relations, business enterprises, commercial solicitations, gambling and borrowing between officer and enlisted **regardless of their Service. This change will not affect existing**

Applicability

IG Issues

ELO

This policy applies to:

- **Relationships between Army personnel (Active or Reserve Soldiers).**
- **Relationships between Army personnel and personnel of other military Services.**
- **Different-gender relationships.**

Para 4-14 thru 4-16

Personnel—General

Army Command Policy

Headquarters
Department of the Army
Washington, DC
13 May 2002

What Did Not Change

ELO

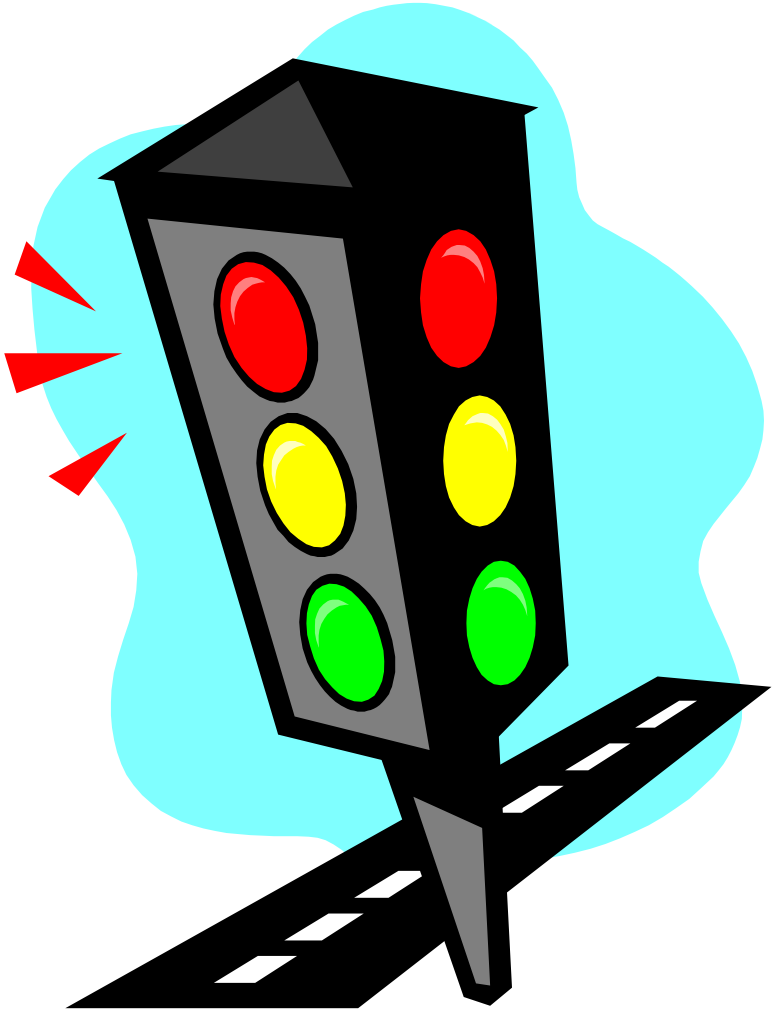
- **Relationships between Soldiers of different rank are prohibited if they:**
  - **Compromise the chain of command.**
  - **Cause partiality or unfairness.**
  - **Involve the improper use of rank for personal gain.**
  - **Are exploitative or coercive in nature.**
  - **Create an adverse impact on discipline, authority, morale, or mission accomplishment.**

- **Relationships that present the <u>appearance</u> of violating any of these standards may also be prohibited.**

What Did Change

- **Certain types of relationships between officers and enlisted personnel are now prohibited.**

- **NOTE: The term "officer" includes both commissioned and warrant officers**



Business Relationships: The Rules

ELO

- **Business relationships between officers and enlisted personnel are prohibited.**
  - **Borrowing or lending money**
  - **Commercial solicitation**

- **Exceptions**
  - **Landlord / tenant relationshi**
  - **One-time transactions (such as sale of an automobile or house)**
  - **For ARNG / USAR only, business relationships which exist due to their civilian occupation or employment**

Business Relationships: What If . . .

- An officer's wife has a business selling Martin Kay cosmetics and Longavenger baskets

- Can she operate it with wife of an enlisted Soldier assigned to her husband's unit?

Business Relationships: Answer

- **The wife's business is not subject to Army policy provided it is truly her business, i.e., the officer has no connection with the business.**

- **The officer must:**
  - **Be sensitive to the perception of preferential treatment.**
  - **Be aware of any perception that unit members are expected to buy from his wife.**

Personal Relationships: The Rules

ELO

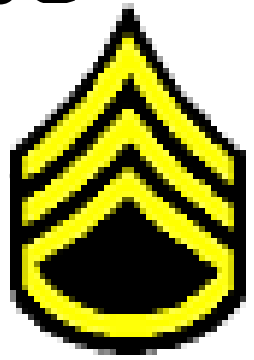
- **Personal relationships between officers and enlisted personnel are prohibited:**
  - **Dating**
  - **Shared living accommodations (other than those directed by operational requirements)**
  - **Intimate or sexual relationships**

- **Exceptions**
  - **Marriages**
  - **Relationships that violate policy only because of the change in status of one military member**

Personal Relationships: Accountability

- **In any relationship the senior person (by rank) is generally in the best position to terminate or limit the relationship.**

- **Both service members may be held accountable for relationships that violate this policy.**



Social & Family Relationships: The Rules

ELO

- **Associations between officer and enlisted that are not prohibited:**
  - **Community organizations**
  - **Religious activities**
  - **Athletic teams and events**
  - **Unit-based social functions**
  - **Family gatherings**

Social & Family Relationships: What If . . .

- **The installation golf course hosts a weekly golf "scramble." As part of this activity, participants pay a $10 fee, and the winning team keeps all the money. The participants are randomly assigned to foursomes. As a result, officers are in the same foursome with enlisted Soldiers.**

- **Is the "scramble" in this form allowable?**

Social & Family Relationships: Answer

- **Army policy allows associations between officers and enlisted Soldiers that occur in the context of athletic and community events.**

Gambling: The Rules

ELO

- **Gambling between officers and enlisted personnel is prohibited.**

- **There are no exceptions.**

Other Prohibited Relationships

ELO

IG Issues

- **Any relationship betwee**
  - **Permanent-party personn and IET trainees not required by the training mission**

  - **Permanent-party personnel assigned or attached to the U.S. Army Recruiting Command and potential prospects, applicants, members of the Delayed Entry Program or Delayed Training Program not required by the recruiting mission**

Conclusion

- **Army's goal <u>did not change</u>: A combat-ready force.**
- **Army's standards <u>did not change</u>: Relationships that harm unit cohesion are unacceptable.**
- **Army policy <u>changed</u>: Commanders are the key players in enforcing the standards.**

U. S. Army Homosexual Conduct Policy

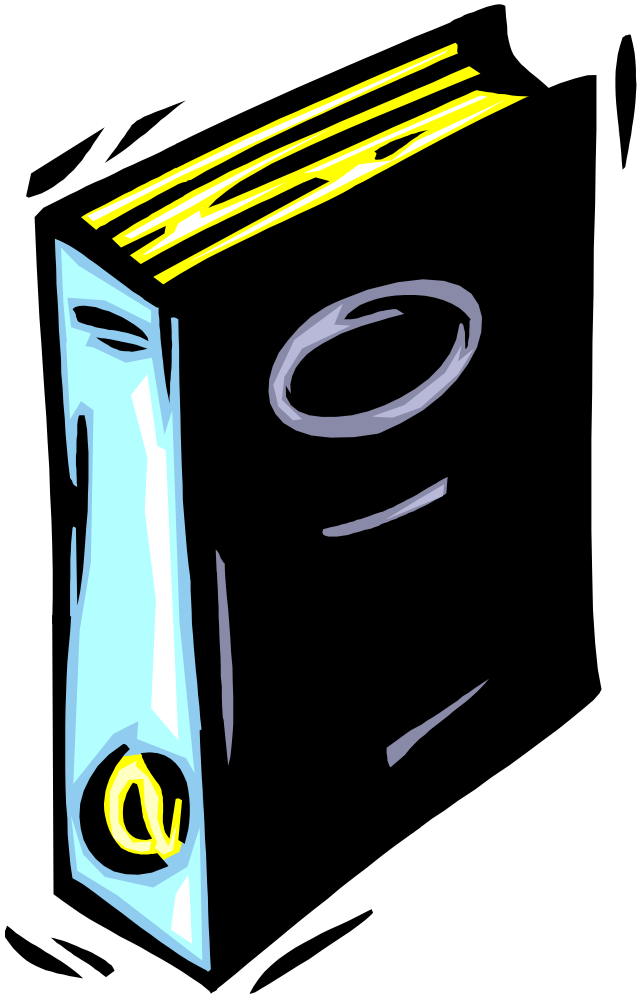
IG Issues

Homosexual Conduct Policy ELOs

- **Describe the basis for discharge under the Army Homosexual Conduct Policy.**
- **Identify who may initiate, and what constitutes grounds for, a fact-finding inquiry into allegations of homosexual conduct.**
- **Identify who (what level of the Army) must approve initiating a substantial investigation into whether a Soldier stated that he or she was homosexual or bi-sexual for the purpose of avoiding or terminating military service.**

Homosexual Conduct Policy

IG Issues



- **AR 600-20, *Army Command Policy*, paragraph 4-19**
- **Implements**
  - **10 U.S. Code § 654**
  - **DoDD 1332.14**
  - **DoDD 1332.30**

The Law

IG Issues

ELO

A member of the Armed Forces shall be processed for separation if one of the following findings is made:

- **The member has stated that he or she is a homosexual or bisexual, or words to that effect**
- **The member has engaged in, attempted to engage in, or solicited another to engage in homosexual act(s)**
- **The member has married or attempted to marry a person known to be of the same biological sex."**

S A M

Limits on Inquiries

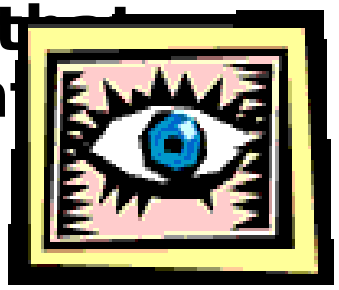
- **Applicants for enlistment will not be asked**
  - **Their sexual orientation.**
  - **If they have engaged in homosexual conduct.**

- **Only a Soldier's commander is authorized to initiate fact-finding inquiries involving homosexual conduct.**
  - **May designate someone else to conduct the inquiry**
  - **Credible information**

Credible Information

- **A statement by a reliable person that the Soldier engaged or solicited another to engage in a homosexual act or said that he / she is homosexual or bisexual.**

- **A reliable person:**
  - **Observed or heard the Soldier make any other statement**
  - **Observed behavior by the Soldier that amounts to a non-verbal statement**



- **Direct evidence**

Not Credible Information

- **Rumors, suspicious, or capricious claims.**
- **Others' opinions.**
- **Going to a homosexual bar.**
- **Reading homosexual publications.**
- **Associating with known homosexuals.**
- **Marching in homosexual rights rallies in civilian clothes.**
- **Reports by a Soldier of being harassed on the basis of perceived sexual orientation.**

Soldier Makes an Untrue Homosexual Statement

- **If a Soldier makes a statement that he or she is a homosexual or bisexual, the Soldier's commander may initiate an inquiry to determine whether that member should be discharged.**

- **Discharge is not required if it is determined that the Soldier made the statement for the purpose of avoiding or terminating military service.**

Soldier Makes a Homosexual Statement But the Commander Thinks The Soldier is Lying

ELO

IG Issues

Commander can question:

- Soldier
- Soldier's immediate chain of command
- Individuals Soldier suggests

Going outside this group is considered a

SUBSTANTIAL INVESTIGATION

Requires approval at the **Army Secretariat** Level

Zero Tolerance for Harassment

IG Issues

- **Definition: Derogatory, abusive, threatening or annoying behavior directed toward an individual or group.**

- **Possible types of harassment**
  - **Verbal (on or off duty)**
  - **Jody calls regarding homosexuals**
  - **Derogatory, abusive, threatening or annoying language or references about homosexuals**
  - **Graffiti in latrines, bulletin boards, etc.**
  - **Anonymous threats (telephonic, electronic, etc.)**

Harassment

- **All Soldiers will be treated with dignity and respect and will be afforded a safe and secure environment in which to live and work.**

- **Harassment of Soldiers for any reason, to include perceived or alleged homosexuality, will not be tolerated.**

- **Commanders at every level will take appropriate action to prevent harassment of or threats against any member of the Army.**

What Can a Soldier Do If Threatened, Harassed, or Accused of Being Homosexual?

- **Report harassment at once to the commander.**
- **Commanders will take appropriate action to protect the safety of Soldiers who report threats or harassment.**

With Whom Can a Soldier Talk With Confidentially?

- **Legal Assistance Attorney**
- **Chaplain**
- **IG ? It depends.**
  - **If a Soldier makes a homosexual statement to you, CALL DAIG LEGAL IMMEDIATELY FOR GUIDANCE (703) 601-1093.**
- **Most Soldiers did not know this information.**

New Developments

- **Some cities allow same-sex marriage (New Paltz, New York; and San Francisco, California).**
- **One state allows same-sex civil unions (Vermont).**
- **<u>Regardless of legality, any attempt to solemnize a relationship as a civil union or marriage between a Soldier and a member of the Soldier's same sex, is a basis for discharge.</u>**

Training Materials

IG Issues

- **http://www.odcsper.army.mil/**

- **Download or view Homosexual Conduct Policy Training Materials**
  - "Don't ask, Don't Tell": Questions and Answers
  - Power Point Slide show on Homosexual Conduct Policy Training
- **View the latest regulations and messages**
  - USC Title 10, Section 654 of the United States Code
  - Department of Defense Press release (13 August 1999)
  - Army Homosexual Conduct Policy (10 January 2000)
  - SecArmy/CSA Message on Homosexual Policy (10 Jan 2000)

The Bottom Line

Call
Your
Attorney

Sexual Misconduct in the Army

Sexual Misconduct ELO

- **Describe an IG's actions upon receiving an allegation of sexual harassment or sexual assault, and identify what office can work the complaint.**

What is Sexual Misconduct?

- **Sexual Harassment is a form of gender discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.**

- **Sexual Assault refers to offenses of a sexual nature committed without the lawful consent of the victim.**
  - **Examples include rape, forcible sodomy, indecent assault, and carnal knowledge.**

CURRENT NEWS EARLY BIRD

TUESDAY, February 4, 1997

Top Enlisted Man in the Army Stands Accused of Sex Assault

Target of Allegation Is on Panel Reviewing Harassment Issue

By ERIC SCHMITT

WASHINGTON, Feb. 3 — A 22-year Army veteran has accused her former boss, the Army's top-ranking

come her initial fears about reporting the incident and had told her superiors at the Pentagon about it about seven weeks later, they had taken no action against Sergeant Major McKinney and had suppressed her complaint. They also ignored her pleas for a job transfer and left her with no other choice but to retire early, she said.

That could have ended the matter. Sergeant Major Hoster, a 39-year-old Army journalist and public affairs

NEW YORK TIMES
February 4, 1997
Pg. 1

The Sergeant Major of the Army — the senior person of that rank, chosen from among the service's Sergeant Majors — is the top adviser to the Army Chief of Staff, a four-star general, on all matters, from housing to health care, relating to the Army's 410,000 enlisted soldiers. Enlisted soldiers make up 85 percent of the Army's ranks. Sergeant Major Hoster was Sergeant Major McKinney's public affairs specialist, responsible for helping him write his speeches

The Washington Post

Thursday, May 11, 2000

Weather
Today: *Sunny, pleasant. High 80. Low 60.*
Friday: *Partly sunny, humid. High 84. Low 62.*

Details, Page **B8**

123rd Year No. 158 S

Army Verifies Harassment Claim

Female General's Charge Likely to Mean Reprimand, Retirement for Fellow Officer

By Thomas E. Ricks
and Roberto Suro
Washington Post Staff Writers

Army investigators have substantiated a charge by the highest-ranking woman in the Army, Lt. Gen. Claudia J. Kennedy, that another Army general, Larry G. Smith, touched her in a sexual manner and tried to kiss her in a Pentagon office in 1996, defense officials said.

Although Kennedy did not file a sexual harassment complaint at the time, the Army investigation found, she did describe the incident to friends and colleagues soon after it occurred, and they have recently corroborated her account. If the findings are accepted by the Army's leadership, as officials familiar with the matter expect, Smith probably will receive a reprimand and be forced to retire.

"This is close to winding up," said one Pentagon official. "There will be a finding that an adverse allegation was substantiated."

Kennedy's charge, which was made privately last year but leaked in March, has been cited as evidence that sexual harassment remains pervasive in the military, even against high-ranking female officers.

Senior Army leaders had worried that the matter would remain unresolved because, ultimately, it would come down to the word of one general against another. But investigators found the supporting accounts by Kennedy's friends and colleagues to be specific and persuasive, Pentagon officials said.

That evidence is included in a report compiled by the Army inspector general's office. Senior officials have not yet approved the report but are expected to do so by

See HARASS, *A20, Col. 1*

FILE PHOTO/BY TOM CALLAN—ASSOCIATED PRESS

Lt. Gen. Claudia Kennedy's account was corroborated, officials said.

S. Carolina's

An Electric Moment

U.S. Army Inspector

IG Issues

AirForceTimes
NCOs: REENFORCED
NEW RULES DETAIL WHAT'S EXPECTED OF EVERY AIRMAN
Force of the future
AWOL again
EQUAL But inside
BUSTED TO COLONEL
The inside story of sex, racy e-mail & 'stunning hypocrisy' that destroyed a two-star's career 14
PLUS
Outraged readers: This is not justice! 44

U.S. Army Inspector

Sexual Harassment

- **A form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct:**
  - **Is made explicitly or implicitly a term or condition of a person's job, pay, or career**
  - **Is used as a basis for career or employment decisions affecting that person**
  - **Interferes with an individual's performance or creates an intimidating, hostile, or offensive environment**

Forms of Sexual Harassment

IG Issues

- **Verbal**
- **Non-verbal**
- **Printed material**
- **Physical**

Verbal & Non-Verbal Sexual Harassment

IG Issues

Verbal

- **Whistling at person's appearance**
- **Jody calls / Sexually degrading language**
- **Promise of rewards or benefits for cooperation**
- **Jokes with sexual connotations**
- **Personal inquiries unrelated to work**
- **Referring to co-workers as honey or baby, etc.**

Non-Verbal

- **Sexually oriented entertainment**
- **Leer f another**

- **Gestures with intentional sexual overtones**
- **Displaying sexually oriented pictures in office or screen-savers on work computers**

Printed Material Sexual Harassment

IG Issues

- **Sexually oriented cartoons, pictures, magazines**
- **Sexually oriented attention-getters**
- **Ashtrays, coffee cups, or figurines representing nudes or sexual body parts**

Physical Sexual Harassment

- **Unwanted touching of any kind**
  - **Touching, patting, kissing**
  - **Pinching, bumping, grabbing**
  - **Cornering, hugging**
  - **Playing footsie / kneesie**
  - **Blocking a passage way**

The Impact of Sexual Harassment

IG Issues

- **Interferes with the persor work performance**

- **Creates a hostile environr**
- **Introduces a high degree of fear and anxiety into the workplace**

BOTTOM LINE: Soldiers or civilians who fend off offensive and repeated sexual attacks do not perform quality work.

Sexual Harassment Inquiries

- **Address the complaint, and look at the larger picture**
  - **Impact on cohesion**
  - **Mission effectiveness**
  - **Acceptable standards of equality and fair play**

- **AR 600-20, Chapter 7, states that units will conduct progressive, interactive, small-group sexual harassment training twice a year**

Sexual Harassment

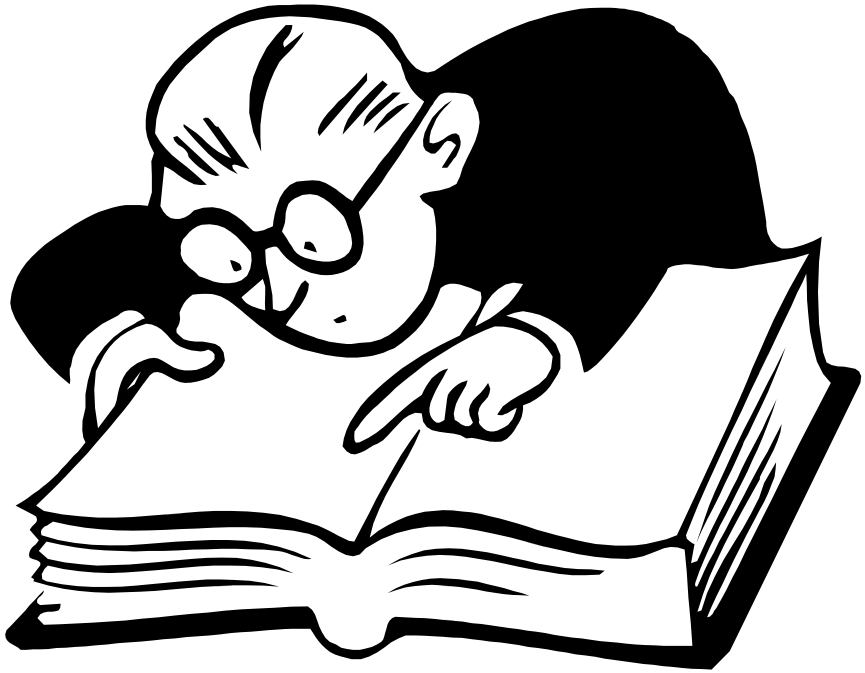
- **Do IGs work sexual harassment (EO) allegations?**

It depends:

- **AR 20-1, para 4-4h**
- **Local command policy**
- **Either IG or Equal Opportunity Advisor may work**

Sexual Harassment References

- **AR 20-1, para 1-4**
- **AR 600-20, Ch 7**
- **UCMJ, Art 93**



Sexual Assault

DAIG Inspection completed on 26 May 04 found:

- **High number of cases either unreported or reported informally**
- **Training in prevention of sexual harassment is conducted but not effective concerning sexual assault**
- **Soldiers not aware of reporting procedures and / or protocols outside of immediate chain of command and designated Equal Opportunity Representative-support systems not well advertised**

The Army Sexual Assault Prevention and Response Program

IG Issues

Requirements

- **Approved by the Acting SA on 19 AUG 04 and implemented 12 NOV 04 (ALARACT 176/2004)**
- **Changes to be published in next revision of AR 600-20 (FY 05)**

Resources

- **Training Support Packages available on Reimer Digital Library**
- **Web site established:**

  http://www.sexualassault.army.mil

Training Requirements

IG Issues

- **Now being taught to all IET students**
- **Initial semi-annual sexual assault awareness sessions required NLT 31 JAN 05**
- **Sexual Assault Prevention and Response information added to all Pre-Deployment and Re-Deployment briefings**
- **Sexual Assault Risks, Prevention, and Response added to all Holiday Safety Briefings**

The IG's Role in Sexual Assault IGARs

IG Issues

ELO

- **"It Depends" upon the source**
- **Local IGAR by complainant is usually referred to local CID for investigation**
- **DAIG controls Army-level referrals (SECARMY, Chief of Staff, etc.) as Office of Record (treat like a Congressional inquiry)**

Trafficking in Persons

Trafficking in Persons (TIP)

Actions, often including use of force, fraud, or coercion, to compel someone into a situation in which he or she will be exploited for sexual purposes, which could include prostitution or pornography, or for labor without compensation, which could include forced labor or bonded labor.

Training Requirements

- **Commanders must ensure that units understand and recognize indicators of TIP**
- **Awareness training program**
  - **U.S. Government Policy**
  - **Phenomenon**
  - **Identify**
  - **Legal Provisions and Consequences**
  - **http://projects.aadlcolab.org/tip/**

Questions?